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PATENTS, TRADEMARKS, COPYRIGHTS

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In re Application of: Peterka et al.
Application No.: 09/807,050
Filed: April 6, 2001
For: **SOFTWARE APPLICATION LIFECYCLE AND MANAGEMENT FOR BROADCAST APPLICATIONS**

Mail Stop AF

Commissioner for Patents
P.O. Box 1450
Alexandria, VA 22313-1450

Art Unit: 2122
Examiner: C. Kendall

Sir:

Transmitted herewith is:

- [X] Response to Final Office Action (4 pages);
- [X] Return receipt postage prepaid postcard;
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The Commissioner is hereby authorized to charge any deficiency in the payment of the required fee(s) or credit any overpayment to Deposit Account No. 50-0625.

Very truly yours,

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Attorney Docket No.: **GIC-555**



IFW
AF

PATENT

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

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CERTIFICATE OF MAILING

I hereby certify that this correspondence is being deposited with the United States Postal Service with sufficient postage as first-class mail in an envelope addressed to: Mail Stop: AF, Commissioner for Patents, P.O. Box 1450, Alexandria, VA, 22313-1450 on: November 5, 2004.

By: Carol Prentice

Carol Prentice

RESPONSE TO FINAL OFFICE ACTION

Dear Sir:

This Response is responsive to the final Office Action mailed on September 21, 2004.

Claims 1-3, 5-7, 9, 10, 12, and 14-24 are pending.

Claims 1-3, 5, 21 and 22 stand rejected under 35 U.S.C. § 102(e) as being anticipated by Parthasarathy (US 6,347,398 B1).

Claims 6, 7, 9, 10, 12, 14-20, 23 and 24 stand rejected under 35 U.S.C. § 103(a) as being unpatentable over Parthasarathy in view of Anandakumar (US 6,574,213).

Applicants respectfully traverse these rejections in view of the following comments.

Discussion of Parthasarathy

Claims 1-3, 5, 21 and 22 stand rejected under 35 U.S.C § 102(e) as being anticipated by Parthasarathy. This rejection is respectfully traversed. An anticipation rejection requires that each and every element of the claimed invention as set forth in the claim be provided in the cited

reference. See *Akamai Technologies Inc. v. Cable & Wireless Internet Services Inc.*, 68 USPQ2d 1186 (CA FC 2003), and cases cited therein. As discussed in detail below, Parthasarathy does not meet the requirements for an anticipation rejection.

Parthasarathy discloses methods and systems to automatically locate, download, verify, install, register and display computer software components from a computer network like the Internet or an intranet (Abstract). Parthasarathy also indicates that the disclosed method can also be used by applications or devices which are not network browsers, such as set-top boxes for television network computers, satellite receiver boxes, personal digital assistants, and wireless communications devices (Col. 3, lines 45-50).

Parthasarathy does not disclose or remotely suggest an Application Program Interface (API) as claimed by Applicants. In particular, Parthasarathy does not disclose an API that enables: (1) the running and subsequent stopping of applications; and (2) pausing of the applications once they are running, and subsequent resuming of the applications, as set forth in Applicants' independent claims 1 and 21.

The Examiner relies on Column 19, lines 60-67 of Parthasarathy which reference OnStartBinding and OnStopBinding as disclosing Applicants' claimed subject matter of an API that enables the running and subsequent stopping of applications (Office Action, page 2) and an API that enables the pausing and subsequent resuming of the applications (Office Action, page 3). Applicants respectfully submit that the Examiner has misconstrued the disclosure of Parthasarathy.

The OnStartBinding of Parthasarathy relates to providing an IBinding for controlling the download of the software. The OnStop Binding of Parthasarathy relates to returning error codes in case of an error in the software download. The OnStartBinding and OnStopBinding of Parthasarathy are part of an IBindStatusCallback mechanism used to communicate the status of the download (Col. 19, lines 53-66).

In contrast to Parthasarathy, the API of Applicants' claims 1 and 21 enables running, stopping, pausing, and resuming of the applications themselves. The OnStartBinding and

OnStopBinding of Parthasarathy relate to the downloading of software, and not to the control of an application once it is downloaded and running as is claimed by Applicants.

As Parthasarathy does not disclose each and every element of the invention as claimed, the rejections under 35 U.S.C. § 102(e) are believed to be improper, and withdrawal of the rejections is respectfully requested. See, *Akamai Technologies Inc., supra*.

Discussion of Anandakumar

Applicants respectfully submit that Anandakumar is not a proper prior art citation. Anandakumar was filed on December 14, 1999 claiming priority from a provisional application filed on August 10, 1999. Applicants' claimed invention was filed on April 6, 2001 and is a continuation of a PCT application filed on October 7, 1999, and also claims the benefit of a provisional application filed on October 13, 1998.

Therefore, Applicants' priority date is October 13, 1998, which predates the August 10, 1999 priority date of Anandakumar. Accordingly, Applicants respectfully submit that the Anandakumar patent is not a proper prior art citation. Withdrawal of the Anandakumar patent as a reference is respectfully requested.

Applicants respectfully submit that the present invention is not anticipated by and would not have been obvious to one skilled in the art in view of Parthasarathy, taken alone or in combination with any of the other prior art of record.

Further remarks regarding the asserted relationship between Applicants' claims and the prior art are not deemed necessary, in view of the foregoing discussion. Applicants' silence as to any of the Examiner's comments is not indicative of an acquiescence to the stated grounds of rejection.

In view of the foregoing, withdrawal of the rejections under 35 U.S.C. § 102(e) and 35 U.S.C. § 103(a) is respectfully requested.